

1 DRATH, CLIFFORD, MURPHY & HAGEN, LLP  
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Attorneys for Defendants  
 5 HANDLER, THAYER & DUGGAN, LLC and  
 6 THOMAS J. HANDLER

7  
 8 UNITED STATES DISTRICT COURT  
 9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 10

12 GREGORY R. RAIFMAN, individually and as )  
 Trustee of the RAIFMAN FAMILY REVOCABLE )  
 13 TRUST DATED 7/2/03; SUSAN RAIFMAN, )  
 individually and as Trustee of the RAIFMAN )  
 14 FAMILY REVOCABLE TRUST DATED 7/2/03; )  
 and GEKKO HOLDINGS, LLC, an Alaskan limited )  
 15 liability company, dba GEKKO BREEDING AND )  
 RACING, )

16  
 17 Plaintiffs, )

18 vs. )

19 CLASSICSTAR, LLC, a Utah limited liability )  
 company; CLASSICSTAR FARMS, LLC, a )  
 20 Kentucky limited liability company; BUFFALO )  
 RANCH, a business entity form unknown; )  
 21 GEOSTAR CORPORATION, a Delaware )  
 corporation; S. DAVID PLUMMER; SPENCER D. )  
 22 PLUMMER, III; TONY FERGUSON; THOMAS )  
 ROBINSON/ JOHN PARROT; HANDLER, )  
 23 THAYER & DUGGAN, LLC, an Illinois limited )  
 liability company; THOMAS J. HANDLER; )  
 24 KARREN, HENDRIX, STAGG, ALLEN & )  
 COMPANY, P.C., a Utah professional corporation, )  
 f/k/a/ KARREN, HENDRIX & )  
 25 ASSOCIATES, P.C., a Utah professional )  
 corporation; TERRY L. GREEN; and DOES )  
 26 1-1000, inclusive, )

27 Defendants. )  
 28 \_\_\_\_\_ )

No. C07-2552 MJJ

DECLARATION OF SCOTT  
 STAINS IN SUPPORT OF  
 MOTION TO SET ASIDE  
 DEFAULT

DATE : 08/28/07  
 TIME : 9:30 a.m.  
 COURTROOM 11:

1 I, SCOTT STAINS, declare and state as follows:

2 1. I am a claims representative with GREAT AMERICAN INSURANCE  
3 COMPANY, and I am in the Professional Liability Division located in Dallas, Texas.

4 2. On May 25, 2007, our company received a letter from THOMAS J.  
5 HANDLER of HANDLER, THAYER & DUGGAN, LLC, and this letter was routed to me. The  
6 letter stated that the firm had "received" a summons in the *Raifman* litigation, and both the summons  
7 and the complaint was enclosed. A copy of the summons is attached hereto as EXHIBIT A. Since  
8 none of the boxes were checked, I assumed the summons and complaint had been mailed to the  
9 insured, as is typically done in legal malpractice actions.

10 3. On Friday, June 1, 2007 I sent JOHN DRATH of DRATH, CLIFFORD,  
11 MURPHY & HAGEN an email asking him if he was willing and able to handle this matter, and the  
12 following week I received word from his assistant Roberta Beach that conflicts were cleared. She  
13 also advised that Mr. Drath was in trial and he would review this matter once his trial was over.

14 4. Believing that service had not yet been effected, I dictated a letter to  
15 Mr. Drath, but due to a work backlog here in our office, the letter did not go out until July 5. There  
16 was no reference in my letter to any service on the insureds, as it was still my belief that no service  
17 had been effected. I did not learn that the summons and complaint had been served until I got an  
18 email from Mr. Drath dated July 12 advising me that a default had been taken the previous day.

19 I declare under penalty of perjury, under the laws of the State of California, that the  
20 foregoing is true and correct. Executed this \_\_\_\_\_ day of July, 2007 at Dallas, Texas.

21  
22  
23 \_\_\_\_\_  
SCOTT STAINS

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